

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

David A. Spieker, Jr.,)	CASE NO. 1:14 CV 723
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	<u>MEMORANDUM OPINION</u>
Commissioner of Social Security,)	
)	
Defendant.)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge Nancy Vecchiarelli. The Report and Recommendation (ECF #9), issued on July 21, 2014, is hereby ADOPTED.

Plaintiff sought review of the Commissioner's decision denying his application for Disability Insurance Benefits. The Commissioner filed a motion to dismiss the Complaint as untimely. The Magistrate ordered Plaintiff to file a response to this motion on or before July 8, 2014. The Plaintiff has never filed a response, thereby leaving the motion uncontested.

Further, the Magistrate found that Plaintiff's Complaint was indeed untimely filed. There is a sixty-day limitations period during which to file a civil action for review of a Commissioner's decision. Plaintiff filed his Complaint on April 2, 2014, nearly two years after the Appeals Council declined review on May 22, 2012. Plaintiff failed to offer any explanation for his delay in filing, and the Commissioner introduced evidence that Plaintiff never asked the Appeals Council for an extension of time to file an action in federal district court. Plaintiff has not filed an objection to the Magistrate Judge's Report and Recommendation.

The applicable standard of review for a magistrate judge's report and recommendation

depends upon whether objections were made to the report. In this case, neither party has filed any objection to the Magistrate's Report and Recommendation. "When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." FED. R. CIV. P. 72, advisory committee's notes (citation omitted). In fact, the U.S. Supreme Court stated in *Thomas v. Arn*, 474 U.S. 140, 150 (1985): "It does not appear that Congress intended to require district court review of a magistrate judge's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings." Nonetheless, this Court has thoroughly reviewed the Report and Recommendation's factual and legal conclusions and finds them to be thorough, well-supported, and correct.

This Court has reviewed Magistrate Judge Vecchiarelli's Report and Recommendation. Following a thorough evaluation of the record, this Court adopts the Magistrate Judge's findings of fact and conclusions of law as its own. Magistrate Judge Vecchiarelli's Report and Recommendation accurately addresses the issues raised. The Report and Recommendation (ECF #9) is hereby ADOPTED. The Commissioner's motion to dismiss Plaintiff's Complaint is GRANTED. (ECF #7). The decision denying Plaintiff's application for Disability Insurance Benefits is AFFIRMED.

IT IS SO ORDERED.

/s/ Donald C. Nugent
DONALD C. NUGENT
United States District Judge

DATED: September 4, 2014